DRN-2318689

The complaint

Mr G complains NewDay Ltd (trading as Aqua) shouldn't have increased the credit limit on his credit card account when it did.

What happened

Mr G opened a credit card account with Aqua in October 2015. The original credit limit was £900. This was agreed based on the information Mr G declared to Aqua about his annual income of £20,000. Aqua confirmed the credit checks made reported no negative markers, no account in arrears or that had been defaulted. The credit limit was increased three times in 2016 and by October 2016 was £3650.

Mr G doesn't think his credit limit should have been increased as he was utilising more and more of his credit limit, as well as having outstanding payday loans with various businesses. He was also using his overdraft regularly. He feels the business should have known that he could not repay his balance within a reasonable length of time, so it should not have let him borrow more. Mr G has now paid off the debt on his credit card account.

Aqua didn't think it had done anything wrong. It said at the time of the increases there was no requirement to obtain bank statements for affordability purposes and that no error had been made when increasing Mr G's credit limit. Aqua mentioned that the existence of payday loans isn't enough, on its own, to have declined Mr G's credit limit increase. And that Mr G was meeting his contractual obligation each month. The repayment plan that Mr G entered was in October 2017, after the limit increases had taken place a year before. The investigator recommended the complaint be upheld. He said looking at the account transactions in 2016, it shows that Mr G was making low and rather modest repayments each month to pay off his outstanding balance. Mr G's payments from February 2016 until the last limit increase in October 2016, were going more to pay off the interest than in reducing his outstanding balance. The investigator felt this was a very clear warning sign that Mr G may have had problems repaying his overall debt, and without doubt an indicator for Aqua to have carried out further checks before increasing his credit limit.

The investigator also thought that Mr G's balance being close to his credit limit was a worrying sign. On top of this the investigator noted Mr G had a few ongoing payday loans. The investigator recommended Aqua should refund all interest and charges applied to Mr G's account from the first limit increase in February 2016 until when the account was closed. And it should do so by adding 8% statutory interest to the refund. Aqua should also remove all negative markers applied to Mr G's credit file starting from the first limit increase in February 2016.

Aqua disagreed. It said prior to the increases in the credit limit Mr G was paying what was required of him contractually. Regarding the credit limit increases and their amount, it says it applies a 'low and grow' strategy and so whilst some creditors will be awarded the full credit amount upfront, it will often start with a lower amount and review the account with a view to increasing it at regular intervals. It also didn't agree that high utilisation, on its own, is a reason to exclude a customer from a credit limit review. It points out that if you look at this period closely, the high utilisation was not across a three month spend, it was as a result of cash transactions within the first month.

The investigator issued a second view. He thought Mr G regularly only making minimum or (just above minimum payments) was an indicator that he may have had difficulties in repaying the amount he was borrowing. And it wasn't enough to simply rely on the fact that he was meeting his contractual obligation to increase his credit limit. He still felt the high utilisation rate was a factor to take into consideration when deciding to increase the credit limit. He also thought the cash transactions were another warning sign. He felt there were enough warning signs that Aqua should have carried out more checks before increasing the limit.

Aqua didn't accept it had done anything wrong. It pointed out Mr G met the minimum monthly payments and didn't notify it of financial difficulties or ask for any assistance. He also cleared the balance in full last year. It said it checked for signs of financial difficulty, affordability and of delinquency as well as their performance (high utilisation and cash transactions) and there was nothing that concerned it to state that he shouldn't have been awarded a limit increase.

The investigator responded that he upheld Mr G's complaint because the payments he was making each month were not helping reduce his outstanding balance. And between July and September 2016, Mr G was running very close to his credit limit. He didn't think that the information Aqua had at the time of the credit limit increases was enough to assume Mr G could afford an increased credit limit. He thought if Aqua had carried out further checks it would have picked up on the fact that Mr G was struggling financially. And although we expect consumers to notify their lender about their circumstances- at the same time there's an onus on a lender to pick up on a consumer's financial situation.

<u>Provisional decision</u>

I didn't agree with all that the investigator or Aqua said so I issued a provisional decision. I said when a business decides to increase a customer's credit limit it needed to consider whether it is responsible to do so. Aqua thought it was responsible here. It pointed to:

- there was no affordability watch or financial difficulty indicators registered with the credit reference agencies at the time of the increases
- the contractual monthly payments were being met
- Mr G hadn't told it that he was in financial difficulties
- it has a 'low and grow' strategy so it doesn't always give consumers the full credit limit at the start of the agreement

I said I looked at the statements up to the last increase in October 2016. After doing so I thought it was reasonable for Aqua to make the first credit limit increase from £900 to £1800. Mr G was making his minimum monthly payment and although the credit limit was doubled it was still fairly low. There were some warning signs – a large percentage of the balance came from cash withdrawals – but overall this wasn't enough for me to say the increase was wrong.

The next increase was in June and increased the credit limit to £2,400. This increase I thought shouldn't have happened without further investigation by Aqua. I said this because over the previous few months the trend for cash withdrawals continued and in a context of someone with a history of payday lending, I thought this should have raised concerns. There was the obvious risk that he was simply borrowing from one creditor to pay another at ever increasing costs. Mr G also exceeded his credit limit. Which I thought suggested he might not be keeping on top of things.

I noted that Mr G did pay off the debt. I investigated this and was satisfied Mr G used money neither he nor Aqua could have predicted he would receive when the credit increases were given, and the balance was increased. I thought, but for this money, he would still be in debt. Had Aqua investigated further before offering the credit limit increase, I thought it was most likely it would have decided not to increase the credit limit as I thought it would have shown Mr G was moving debt from one lender to another. I therefore thought the latter two credit limit increases shouldn't have happened.

I explained when we look at compensation, we look to put the consumer in as close a position as they would have been in, had any error not occurred. In this case I thought Mr G would have continued to have a balance at or near £1800 until December 2019 when he paid off most of his debt. Mr G did get the benefit of the money he borrowed so I thought it was fair that he repaid what he borrowed. But as I didn't think Aqua should have allowed him to borrow as much as it did, I thought Aqua should repay to Mr G any charges or interest on his credit card account from June 2016 to December 2019 which occur as a result of the balance of the account being over £1,800. When the figure is calculated then it should also pay interest at the rate of 8% a year simple from 29 November 2019 (when Mr G had paid back what he borrowed) until the date Aqua repays Mr G.

I didn't think Aqua should change the way it has reported the debt to credit reference agencies. This was because I thought it was in Mr G's interests for other lenders to appreciate that he had struggled financially in the past and to have as complete a picture of this as possible.

<u>Responses to my provisional decision</u>

Mr G accepted it.

Aqua acknowledged receipt of the decision but didn't

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Putting things right

As neither Mr G not Aqua asked me to consider anything further following my provisional decision, I see no reason to change it and confirm it here.

My final decision

I uphold this complaint and order NewDay Ltd (trading as Aqua) to

- repay to Mr G any charges or interest on his credit card account from June 2016 to December 2019 which occur as a result of the balance of the account being over £1,800.
- pay interest at the rate of 8% a year simple (from 29 November 2019 until the date Aqua repays Mr G) on the sum referred to above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 3 December 2020.

Nicola Wood
Ombudsman